

ENTERED

April 20, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

BEN CHAPA,

Petitioner,

v.

SOCIAL SECURITY
ADMINISTRATION,

Respondent.

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Civil Action No. 6:21-CV-00015

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court is the March 14, 2022 Memorandum and Recommendation (“M&R”) signed by Magistrate Judge Jason B. Libby. (Dkt. No. 30). In the M&R, Magistrate Judge Libby reviewed the ALJ’s decision that Petitioner Ben Chapa was not disabled and recommends that the ALJ’s decision is supported by substantial evidence. Specifically, after reviewing the record, Magistrate Judge Libby rejected Chapa’s three arguments: (1) the ALJ failed to properly consider all of his impairments at Step 2 of the process for evaluating a disability claim, (*Id.* at 20–24); (2) the ALJ’s determination as to Chapa’s residual functional capacity was not based on substantial evidence, (*Id.* at 24–29); and (3) the ALJ erred by applying the Medical Vocational Guidelines (usually referred to as the Grid Rules) at Step 5 of the process for evaluating a disability claim because Chapa has a non-exertional limitation, (*Id.* at 29–32). Magistrate Judge Libby recommends that Chapa’s Motion for Summary Judgment be denied and

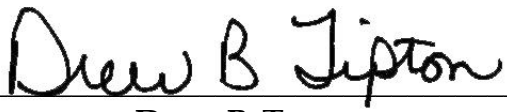
the Respondent Commissioner of Social Security's Motion for Summary Judgment¹ be granted.

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Neither Party objected. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005).

No plain error appears. Accordingly, the Court **ACCEPTS** the M&R as the Court's Memorandum Opinion and Order. The Court **DENIES** Ben Chapa's Motion for Summary Judgment. (Dkt. No. 28). The Court **GRANTS** the Commissioner of Social Security's Motion for Summary Judgment. (Dkt. No. 29).

It is SO ORDERED.

Signed on April 20, 2022.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE

¹ Magistrate Judge Libby construed the Commissioner's Response in Opposition to Chapa's Motion for Summary Judgment, (Dkt. No. 29), as a cross motion for summary judgment. (Dkt. No. 30 at 1).